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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers	)	CC Docket No. 00-256
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation	)	CC Docket No. 98-77
Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers	)	CC Docket No. 98-166

Comments of Townes Telecommunications, Inc.

Townes Telecommunications, Inc. (Townes), by its attorneys, hereby submits comments on the Multi-Association Group (MAG) Plan concerning the regulation of interstate services of non-price cap incumbent local exchange carriers (ILECs). Townes has a number of non-price cap incumbent local exchange operating company subsidiaries in rural Arkansas, Missouri, Kansas, Florida, Texas, and Colorado. Accordingly, Townes has a substantial interest in the MAG plan.

I. The Optionality of the MAG Plan is Critical for Small Carriers

Townes agrees with the MAG plan sponsors that a flexible approach to access charge reform is necessary to accommodate the many different circumstances of non-price cap ILECs.

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Thus, Townes strongly supports the optionality provisions in the MAG plan which allow carriers to select Path A or Path B and provide for a transition period for carriers that select Path A price cap regulation.

It is critical to maintain different paths in light of the way many small carriers make investments to upgrade their networks. Unlike larger carriers that are continuously upgrading their exchanges on a rotating basis, many small carriers do not have a continuous investment program. Rather, small carriers are more likely to have a " cyclical" or "periodic" investment pattern and upgrade the major portion of their entire network on a periodic basis, such as once every fifteen (15) years.[1] This investment pattern is the most efficient for many small carriers because it allows them to take advantage of engineering and construction economies of scale in upgrading their entire plant all at once, rather than just small portions annually. It also allows small carriers to make more efficient personnel decisions and avoid the cost of personnel who are needed only for upgrade purposes.

Whether an ILEC has a continuous or "cyclical" investment program, and where a carrier is in its investment schedule, will have a significant impact on whether it chooses Path A or B. For example, an ILEC that recently completed an upgrade or is in the process of completing an upgrade may be able to choose Path A without a significant near term impact on its ability to provide quality service via modern plant. However, a carrier with a "cyclical" investment pattern that is five, ten or more years away from its next upgrade, may not be able to fund its next upgrade under price cap regulation. Such carrier's may find it necessary to stay under rate of return regulation in order to ensure that it can adequately upgrade its facilities in the future.

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1 The composite depreciation rate of the average small ILEC is normally in the 6.0%-7.0% range, which implies a composite plant life of around 15 years.

Moreover, the five year transition period under Path A may not be sufficient to address this issue. As an initial matter, given the delays both in securing the materials and subcontractors required for an upgrade and in obtaining RUS and other loans for such projects, an ILEC may be unable to complete a total outside plant upgrade in five years. In addition, it is not clear that it would be economically efficient or justified to force all small carriers to perform a total outside plant upgrade in the near future, without regard to when a carrier's last upgrade was completed. Accordingly, it is critical that ILECs retain the ability to assess whether and when to move to price cap regulation. At a minimum, the Commission must consider the impact of price cap regulation on small carriers with " cyclical" investment patterns.

II. A Productivity Factor Should Not be Adopted

Townes requests that the Commission not adopt a "productivity factor" as part of price cap regulation under Path A. Townes believes that it is not possible to derive a uniform factor that accurately reflects the productivity of small, rural carriers compared to the rest of the economy given the diversity among such carriers. A nationwide average productivity factor would not be indicative of what any particular small carrier could achieve and because of their size, small carriers would be less able to balance less productive with more productive segments of their operations. Furthermore, a productivity factor offset would reduce the level of USF funding available thereby discouraging plant investment at a time when the FCC is attempting to promote broadband deployment in rural areas.

III. Path Optionality Should Be At Study Area Level For Holding Companies

Townes supports the MAG provisions that would enable holding companies to select Path A or Path B on an operating company basis (i.e. by study area). In order to accommodate the great differences between each of the Townes operating companies, including differences in their investment schedules, Townes requires the flexibility to select Path A or Path B on an operating company basis.

IV. The MAG Plan May Need To Be Harmonized with the RTF Plan

Finally, if the Commission does not adopt the MAG plan in its entirety as Townes recommends, then the Commission must consider the potential impact of combining portions of the Rural Task Force Recommendation (RTF plan) addressing universal service support for rural carriers with portions of the MAG plan. Specifically, under the RTF plan, high cost loop support is frozen once a competitive ETC (CETC) provides service to just one line in a rural carrier's service area. Thus, if the RTF Plan is adopted and a CETC captures one line of a rural ILEC, it is unlikely that the rural ILEC will ever materially increase its plant investment above the level that existed on the date its HCL was frozen, since the frozen and annually adjusted HCL will not support a significantly greater level of investment. Unfortunately, for the substantial majority of small rural ILECs and their customers, the future level of rural broadband deployment desired by the Commission and mandated by the urban/rural comparability language found in the Telecommunications Act of 1996 is unlikely to occur if the rural ILECs' HCL support is frozen at levels which can only support today's level of net plant investment.[2]

V. Conclusion

Based on the foregoing, Townes respectfully requests that the Commission adopt the recommendations contained herein.

Respectfully submitted,

TOWNES TELECOMMUNICATIONS, INC.

By: ______________________

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Dated: February 26, 2001

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[2] This issue is further addressed in Townes' comments on the RTF universal service recommendation, which are being filed today.

CERTIFICATE OF SERVICE

I, Michael B. Adams, Jr., hereby certify that I am an attorney with the law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, and that a copy of the foregoing **Comments of Townes Telecommunications, Inc.** concerning the proposals of the Multi-Association Group to be served by first class mail or hand delivery this 26th day of February, 2001, to the persons listed below.

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